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IN THE

Supreme Court of the United States

OCTOBER TERM, 1951.

No. 524.

CHEMICAL BANK & TRUST COMPANY, AS TRUSTEE UNDER THE INDENTURE, DATED AS OF DECEMBER 1, 1926, SECURING THE MISSOURI PACIFIC SECURED SERIAL BONDS,

Petitioner,

v.

GROUP OF INSTITUTIONAL INVESTORS HOLDING FIRST AND REFUNDING MORTGAGE 5% BONDS OF MISSOURI PACIFIC RAILROAD COMPANY, *et al.*,

Respondents.

BRIEF FOR RESPONDENT MANUFACTURERS TRUST COMPANY, AS CORPORATE TRUSTEE UNDER THE FIRST AND REFUNDING MORTGAGE OF MISSOURI PACIFIC RAILROAD COMPANY, IN OPPOSITION.

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Dated: New York, N. Y., February 7, 1952.

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INDEX.

	PAGE
OPINIONS BELOW	2
JURISDICTION	2
QUESTION PRESENTED	2
STATEMENT AND ARGUMENT	2
CONCLUSION	3

CITATIONS.

Cases:

Ecker v. *Western Pacific Railroad Corp.*, 318 U. S. 448 (1943)	2
Group of Institutional Investors v. *Chicago, Milwaukee, St. Paul & Pacific Railroad Company*, 318 U. S. 523 (1943)	2, 3
In re Missouri Pacific Railroad Company, 93 F. Supp. 832 (E. D. Mo. 1950) affd. sub nom. *State of Texas, et al.* v. *Group of Institutional Investors etc.*, 191 F. 2d 265 (8 Cir. 1951)	1, 2
James B. Morris, et al v. *Group of Institutional Investors, et al.*, 191 F. 2d 265 (8 Cir. 1951), cert. denied, ... U. S. ..... (October Term 1951, No. 415)	2
Missouri Pacific Railroad Company Reorganization, 275 I. C. C. 59, 203 (1949)	2

Statutes:

Bankruptcy Act, §77, 11 U. S. C. §205	2

Record references in this brief are as follows:

C. R. = Transcript of proceedings in Cause No. 14,256 and Causes Nos. 14,264-14,274 in the Court of Appeals for the 8th Circuit.

D. R. = The Fourth Supplemental Report and Fifth Supplemental Report and Order of the Interstate Commerce Commission approving the plan of reorganization of Missouri Pacific Railroad Company and affiliated debtors.

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BRIEF FOR RESPONDENT MANUFACTURERS TRUST COMPANY, AS CORPORATE TRUSTEE UNDER THE FIRST AND REFUNDING MORTGAGE OF MISSOURI PACIFIC RAILROAD COMPANY, IN OPPOSITION.

Opinions Below.

The opinion of the District Court is reported at 93 F. Supp. 832 (E. D. Mo. 1950). The opinion of the Court of Appeals for the Eighth Circuit (C. R. 14-36)* is reported

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* A list of abbreviations and references used in this brief is on page i, *supra*.

at 191 F. 2d 265 (8 Cir. 1951). The Fourth and Fifth Supplemental Reports of the Interstate Commerce Commission (D. R. 28469, 28640) are reported at 275 I. C. C. 59, 203. The Plan of Reorganization is at D. R. 28689-760.

Jurisdiction.

The jurisdictional requisites are set forth in the Petition.

Question Presented.

Whether the holder of a junior interest [5¼% Secured Serial Gold Bonds of Missouri Pacific Railroad Company] in a bankrupt railroad company have been accorded a fair and equitable position in the Plan of Reorganization as required by Section 77 of the Bankruptcy Act, 11 U. S. C. §205.

Statement and Argument.

On January 28, 1952, this Court denied certiorari in *James B. Morris, et al.* v. *Group of Institutional Investors, et al.* (October Term 1951, No. 415). The first question presented by that Petition was exactly the same as the question presented by this one. See Brief of respondent Manufacturers Trust Company in No. 415, dated December 6, 1951, p. 2; Petition for Writ of Certiorari in No. 415, p. 7.

In its brief in opposition in No. 415, this respondent pointed out that "Petitioners have received fair and equitable treatment under the Plan" (Brief, p. 7) and that "the method of allocation does not conflict with the decisions of this Court" (Brief, p. 8). As in No. 415 the Commission and the Courts below recognized and followed the principles declared by this Court in *Ecker* v. *Western Pacific Railroad Corp.*, 318 U. S. 448 (1943) and *Group of Institutional Investors* v. *Chicago, Milwaukee, St. Paul & Pacific*

Railroad Company, 318 U. S. 523 (1943). No occasion for the application of other or different principles is here presented.

Conclusion.

For the reasons set forth in its brief in No. 415, respondent respectfully submits that this Petition for Writ of Certiorari should be denied.

Respectfully submitted,

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